

1  
2  
3  
4  
5  
6  
7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

9 MICHAEL PITZENBERGER,

10 Plaintiff,

11 v.

12 MICHAEL J. ASTRUE, Commissioner of the  
13 Social Security Administration,

14 Defendant.

Civil No. 3:11-cv-05103-BHS-JRC

REPORT AND RECOMMENDATION ON  
STIPULATED MOTION FOR REMAND

15 This matter has been referred to Magistrate Judge J. Richard Creatura pursuant to 28  
16 U.S.C. § 636(b)(1)(B) and Local Magistrate Judge Rule MJR 4(a)(4), and as authorized by  
17 Mathews, Secretary of H.E.W. v. Weber, 423 U.S. 261 (1976). This matter is before the Court  
18 on defendant's stipulated motion to remand the matter to the Commissioner for further  
19 consideration (ECF No. 21).

20 After reviewing the stipulated motion and the remaining record, the undersigned  
21 recommends that the Court grant defendant's motion, and reverse and remand this matter to the  
22 Commissioner pursuant to sentence four of 42 U.S.C. §405(g)..

23 On remand, an administrative law judge (hereinafter "the ALJ") should hold a *de novo*  
24 hearing and plaintiff should be allowed to raise any issue and submit additional evidence and

1 arguments to the ALJ. This Court recommends that the ALJ take any other actions necessary to  
2 develop the record.

3 On remand, the ALJ should: (1) reevaluate the medical source evidence of record,  
4 including the medical opinions of Daniel M. Neims, Psy.D.; Richard Price, M.D.; Anjan Sattar,  
5 M.D.; Terilee Wingate, Ph.D.; and agency consultative physicians, state the weight given, and  
6 articulate reasons if rejecting any medical opinion; (2) reevaluate the severity of plaintiff's  
7 impairments and reassess whether or not he meets or medically equals a listing; (3) reevaluate  
8 plaintiff's credibility and reassess his residual functional capacity; and, (4) continue with the  
9 sequential evaluation process, obtaining supplemental vocational expert testimony if warranted  
10 by the expanded record.

11 Following proper presentation, this Court should consider plaintiff's application for costs  
12 and attorney fees under 28 U.S.C. § 2412(d) and 42 U.S.C. § 406(b).

13 Based on the relevant record and the parties' stipulation, the undersigned recommends  
14 that the Court immediately grant defendant's motion and **REVERSE** the Commissioner's  
15 decision pursuant to sentence four of 42 U.S.C. §405(g), with a **REMAND** of the cause to the  
16 Commissioner for further proceedings. See Melkonyan v. Sullivan, 501 U.S. 89 (1991).

17 This Court recommends that JUDGMENT should be entered for plaintiff, and that this  
18 case be closed.

19 DATED this 11<sup>th</sup> day of July, 2011.

20  
21 

22 J. Richard Creatura  
23 United States Magistrate Judge  
24